

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESAL PRICE)	MDL DOCKET NO. 1456
LITIGATION)	
_____)	Civil Action No. 03-CV-11157 <i>PBS</i>
THIS DOCUMENT RELATES TO:)	Lead Case No. 01-CV-12257 <i>PBS</i>
<i>Swanston v. TAP Pharmaceutical Products</i>)	
<i>Inc., et al.</i>)	Judge Patti B. Saris

NOTICE OF WITHDRAWAL WITHOUT PREJUDICE OF
DEFENDANT TAP PHARMACEUTICAL PRODUCTS INC.'S
MOTIONS: (1) FOR PROTECTIVE ORDER; AND
(2) TO COORDINATE DEPOSITIONS AND FOR A PROTECTIVE ORDER

Defendant TAP Pharmaceutical Products Inc. ("TAP") hereby withdraws, without prejudice, the following two motions it filed on September 22, 2003 in the above-captioned case (the "*Swanston* Action"): (1) Motion For Protective Order (the "Reidy Motion"), Master Docket No. 545; and (2) Motion To Coordinate Depositions And For A Protective Order (the "Watkins Coordination Motion"), Master Docket No. 546. As grounds for this withdrawal without prejudice, TAP states:

1. The Reidy and Watkins Motions were filed in response to deposition notices served September 17, 2003 by Donald E. Haviland, Jr., counsel for Plaintiffs in the *Swanston* Action, seeking to take the depositions of Daniel E. Reidy, Esq., TAP's lead counsel in this case, Thomas Watkins, President of TAP, and other TAP witnesses.

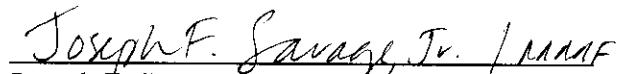
2. On October 9, 2003, prior to the remand hearing before this Court in the above-captioned matter, counsel for TAP Joseph F. Savage conferred with Mr. Haviland, who advised Mr. Savage that plaintiff *Swanston* had agreed to withdraw his notices for the depositions of Messrs. Reidy and Watkins in this action.

3. During the October 9, 2003 remand hearing before this Court, Mr. Savage informed the Court that Mr. Haviland had agreed to withdraw the deposition notices, and that there was therefore no need for the Court to rule upon TAP's motions at this time. The Court requested that the present notice of withdrawal be filed.

4. TAP reserves its right to renew the Reidy Motion and/or the Watkins Coordination Motion in the event that (a) Mr. Haviland re-notices the depositions of Messrs. Reidy and/or Watkins in this case, or (b) Mr. Haviland refuses to coordinate depositions either by refusing to allow or refusing to participate in depositions where all counsel in Lupron®-related cases are permitted to attend, so that TAP witnesses do not need to be deposed repeatedly on the same issues.

Dated: October 24, 2003

Respectfully submitted,


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***Attorneys for Defendant TAP Pharmaceutical
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AVERAGE WHOLESALE PRICE)	MDL DOCKET NO. 1456
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)	Civil Action No. 03-CV-11157 <i>PBS</i>
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<i>Swanston v. TAP Pharmaceutical Products</i>)	
<i>Inc., et al.</i>)	Judge Patti B. Saris

[PROPOSED] ORDER

Defendant TAP Pharmaceutical Products Inc.'s ("TAP") Motion For Protective Order (Master Docket No. 545) and Motion To Coordinate Depositions And For A Protective Order (Master Docket No. 546) having been withdrawn without prejudice, the Court need not rule on these Motions at this time. TAP may renew these Motions at a later date.

SO ORDERED, this ___ day of _____, 2003

The Honorable Patti B. Saris
United States District Judge

CERTIFICATE OF SERVICE

I, Monica M. Franceschini, hereby certify that on October 24, 2003, a true and correct copy of the foregoing Notice Of Withdrawal Without Prejudice Of Defendant TAP Pharmaceutical Products Inc.'s Motions: (1) For Protective Order; And (2) To Coordinate Depositions And For A Protective Order was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties, and was also served on the following parties in MDL 1430 as indicated below:

Via Verilaw

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Via Overnight Delivery

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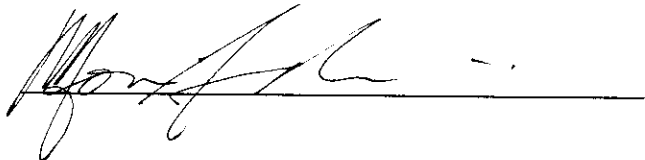
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October 24, 2003

By Hand Delivery

Civil Clerk's Office
United States District Court
District of Massachusetts
One Courthouse Way
Boston, MA 02110

RE: In re: Pharmaceutical Industry Average Wholesale Price Litigation
MDL Docket No. 1456, Lead Case No. 01-CV-12257 PBS; *Swanston v. TAP
Pharmaceutical Products Inc., et al.*, Civil Action No. 03-CV-11157 PBS

Dear Sir or Madam:

Enclosed for filing in the above-referenced action is Defendant TAP Pharmaceutical Products Inc.'s ("TAP") Notice Of Withdrawal Without Prejudice Of TAP's Motions (1) For Protective Order; And (2) To Coordinate Depositions And For A Protective Order.

Kindly acknowledge receipt of the enclosed by file-stamping the copy and returning it to the awaiting messenger. Thank you for your assistance in this matter.

Sincerely,



Monica M. Franceschini

Enclosures

cc: All Counsel of Record In Re: Pharmaceutical Industry Average Wholesale Price Litigation, MDL 1456, Civil Action No. 01-CV-12257-PBS, by Verilaw
Donald E. Haviland, Jr., Esq. (via overnight delivery)
Jeffrey Kodroff, Esq. (via overnight delivery)
Michael Hefter, Esq. (via overnight delivery)
Richard Cohen, Esq. (via overnight delivery)
Joseph Saveri, Esq. (via overnight delivery)
Michael Hausfeld, Esq. (via overnight delivery)
J. Hoke Peacock, Esq. (via overnight delivery)